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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/742,324	12/19/2003	David P. Ress	7000-296	5773
27820 7590 12/08/2008 WITHROW & TERRANOVA, P.L.L.C. 100 REGENCY FOREST DRIVE SUITE 160 CARY, NC 27518				
EXAMINER				
AL AUBAIDI, RASHIA S				
ART UNIT		PAPER NUMBER		
2614				
MAIL DATE		DELIVERY MODE		
12/08/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/742,324

**Applicant(s)**

RESS ET AL.

**Examiner**

RASHA S. AL AUBAIDI

**Art Unit**

2614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 10-16, 21 and 30-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 21 is/are rejected.
- 7) ☒ Claim(s) 10-16 and 30-36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/888)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. In view of the Appeal Brief filed on 09/23/2008, PROSECUTION IS HEREBY REOPENED. New ground of rejection set forth below. Claims 33-60 are pending.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tassel et al, US Patent Application Publication 2003/0154174 in view of Roberts, United States Patent Application Publication 2003/0152039 and further in view of Rabenko et al. (Pub. No.: 2001/0033583).

As to **claim 1**, Tassel teaches network charging. Tassel teaches in one embodiment that terminal 5 is connected to the network management platform via an access router 7, wherein the router reads on the gateway. Paragraph 21 teaches that a tariff code is generated at the network management platform 40 and sent through the router/gateway to the user terminal 5 by means of a multicast using IP, wherein multicast using IP reads on the media control protocol. Note that paragraph 23 teaches that the media terminal transforms the tariff code into a set of rules.

Even though the tariff is necessarily routed through the router 7, Tassel does not explicitly teach that the gateway receives the complete tariff and forwards the tariff.

In the same field of endeavor, Roberts teaches that gateway GGSN receives the tariff information and forwards the information to the user (paragraphs 28-29). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply the teachings of Roberts in Tassel for the purpose of giving the gateway and additional functionality of forwarding the metering information. Additionally, the function of metering is well known in

the art and would yield the same results whether it is implemented in the gateway or the user's terminal.

Neither Tassel nor Roberts specifically teaches that the signals provided from the gateway to a metering entity are in the form of **"pulses"**.

However, Rabenko teaches in a voice gateway with downstream voice synchronization a metering **pulse generator 440** can be used to generate metering pulses which allow a user to monitor the cost of the call as it progresses.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the feature of generating pulse signals to the metering entity (i.e., telephone) during a call that informs the user about the cost of the call in progress, as taught by Rabenko, into the combination Tassel and Roberts in order to alert the user about the usage , cost and other tariff information. Using pulses signals is one of the available ways of communications. Also, it is considered an old and well known feature in the art of telephony.

As to **claim 21**, Tassel teaches:

a) a packet interface to facilitate communication over a packet network  
(fig. 1, element 7, note the side connected to element 2A)

b) a telephony line interface to facilitate communications over a telephony line to either a telephony endpoint having a metering function or a metering device associated with the telephony endpoint (fig. 1, element 7, note the side

connected to terminal 5) c) a control system associated with the packet interface and the telephony line interface (fig. 1, element 40)

Tassel teaches network charging. Tassel teaches in one embodiment that the terminal 5 is connected to the network management platform via an access router 7, wherein router reads on gateway. Tassel in paragraph 21 teaches that a tariff code is generated at the network management platform 40 and sent through the router/gateway to the user terminal 5 by means of a multicast using IP, wherein multicast using IP reads on the media control protocol. Note that paragraph 23 teaches that the media terminal transforms the tariff code into a set of rules.

Even though the tariff is necessarily routed through the router 7 to reach the terminal, Tassel does not explicitly teach that the gateway receives the complete tariff and forwards the tariff.

In the same field of endeavor, Roberts teaches that gateway GGSN receives the tariff information and forwards the information to the user (paragraphs 28-29).

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to apply the teachings of Roberts in Tassel for the purpose of giving the gateway and additional functionality of processing forwarding the metering information. Additionally, the function of metering is well known in the art and would yield the same results whether it is implemented in the gateway or the user's terminal.

Neither Tassel nor Roberts specifically teaches that are the signals provided from the gateway to a metering entity is in the form of **"pulses"**.

However, Rabenko teaches in a voice gateway with downstream voice synchronization a metering **pulse generator 440** can be used to generate metering pulses which allow a user to monitor the cost of the call as it progresses.

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the feature of generating pulse signals to the metering entity (i.e., telephone) during a call that informs the user about the cost of the call in progress, as taught by Rabenko, into the combination Tassel and Roberts in order to alert the user about the usage , cost and other tariff information. Using pulses signals is one of the available ways of communications. Also, it is considered an old and well known feature in the art of telephony.

#### ***Allowable Subject Matter***

3. **Claims 10-16 and 30-36** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1 and 21 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rasha S. AL-Aubaidi whose telephone number is (571)

272-7481. The examiner can normally be reached on Monday-Friday from 8:30 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad Matar, can be reached on (571) 272-7488.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Rasha S AL-Aubaidi/  
Primary Examiner, Art Unit 2614

/Ahmad F Matar/  
Supervisory Patent Examiner, Art Unit 2614